

RICHARD KING.

FEBRUARY 8, 1904.—Ordered to be printed.

Mr. WARREN, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. 4054.]

The Committee on Military Affairs, to whom was referred the bill (S. 4054) for the relief of Richard King, submit to the Senate a favorable report thereon, recommending the passage of the bill without amendment.

The claim of Richard King has been before the Senate since the Fifty-fourth Congress. It was favorably reported and passed the Senate in the Fifty-fifth Congress, second session, Fifty-sixth Congress, first session, and Fifty-seventh Congress, first session. The bill which passed the Senate in the Fifty-fifth Congress, second session, was favorably reported to the House of Representatives from the Committee on Claims of that body.

The facts in this case are substantially as follows, as shown by affidavits of civilians and by reports of military authorities having knowledge of the circumstances:

Richard King was shot by a soldier of Troop F, Ninth Cavalry, while that troop was en route from Rawlins, Wyo., to Fort Du Chesne, Utah, on June 7, 1894. On that day King was herding his sheep about 25 miles southwest of Baggs, Wyo., and about three-quarters of a mile off from the Thornburg road. Between 9 and 10 o'clock, a. m. he was shot through the body and fell on his face. Upon raising himself, he was able to see two men with horses, who seemed to him to be going away from him. He motioned to the men, and one of them proved to be a colored soldier, and, when asked why he shot King, said he "thought he was an antelope." Both men then left, one ostensibly to find the surgeon and the other to find King's wife, who was in camp about three-quarters of a mile away. After waiting some time he crawled toward his camp, and upon arrival there found the soldier had not made his appearance. Upon examination afterwards, as is shown by official reports, the man failed to find the camp of King, and, fearing that King would die, had not reported the accident to his command.

During the afternoon the hospital steward of the command came to King's camp, having been ordered to do so when notice of the shooting was given to the command by the second soldier. His report to the military authorities sets forth the serious nature of the wound, and corresponds in its material features with the affidavit of Dr. W. S. Bennett, who afterwards attended King. King suffered for a long time, incurred over \$600 expenditure for medical services; his only property, a herd of sheep of some 2,000 head, were badly scattered and never recovered, and he sustains, from all the evidence, a life-long injury, which will forever prohibit him from active labor. The affidavit of Doctor Bennett, above referred, to says: "He will live, but he can never be a strong, able-bodied man." He further states that in two cases out of three such a gunshot wound would result fatally.

The Secretary of War, after a full official investigation and with all the official reports before him, says:

After a very careful review of the evidence in the case it is the opinion of this Department that it was one of those most unfortunate accidents for which no one seems really to blame. Indeed, it is a case which it is very likely would appeal to the sympathy of Congress, and would seem to be a very proper one to be brought to the attention of that body by Mr. King or his representative, but it is not thought that the War Department should take the initiative in the matter.

The Acting Judge-Advocate-General, in his report upon all the evidence and official information in the case, says:

I do not find that any culpability attaches to Capt. H. W. Wright, Troop F, Ninth Cavalry, in this case. On being apprised of the shooting, he appears to have dispatched at once the medical officer of his command to seek out and attend the wounded man, and to have done all that could be expected of him under the circumstances. But Mr. King has certainly a most equitable claim upon the United States on account of these injuries and expenses—the result of the negligent act of the United States soldier. The Secretary of War, however, would of course not be authorized to entertain an unliquidated claim of this character in the absence of legislation of Congress. The case is thus eminently one for relief by that body, to whose attention it is recommended that the Secretary invite this appeal at the earliest opportunity.

Major-General Schofield, commanding the Army at the time, concurs in the recommendation of the acting Judge-Advocate-General.

The following are extracts from the statement of the commanding officer, Capt. H. H. Wright, made to the post-adjutant at Fort Duchesne, Utah:

On June 4 the command left Rawlins, Wyo., en route for Fort Duchesne, Utah.
* * * As antelope were plentiful, I permitted several parties of good shots to hunt them. * * * One of the parties, Corporal Strother, who was in company with Sergeant Bennett, saw on a hill at a distance of about 200 yards a black object which he supposed was a bear. He fired at it and was greatly surprised at the yelping of a dog and cries from a man. Both men immediately went over and found that the corporal had shot a shepherd dog, the ball passing through and entering the shoulder of a man, coming out and again entering the body lower down. The man was dressed in brown clothing or overalls, was entirely unseen by either the sergeant or corporal from standpoints separated by from 30 to 50 yards. After doing what they could for the wounded man, he requested that one of them go forward to the column for surgical assistance and that the other go after his wife, who was in camp about one-quarter of a mile distant. Sergeant Bennett being mounted started for the troop to notify me, and Corporal Strother on foot searched for the wife; failing to find her, and being badly frightened at what he had done, fearing the man would die, he wandered around on foot and did not go back to him. Sergeant Bennett continued on until, finding his horse failing, and meeting with Sergeant Johnson who had also been hunting on the flank and rear, directed him to ride forward and notify me that a sheep herder was shot, but gave him none of the particulars.

I was not aware that the command was in any way responsible for the accident, and, supposing that I was only doing a humane act, directed the steward, Leopold,

accompanied by three of the most intelligent noncommissioned officers of the troop, to return, and, if the man proved dangerously wounded, to bring him to the column, or, if not, to transport him home or wherever he wanted to go, and give him all the surgical treatment possible. * * * About 11 o'clock p. m. Steward Leopold and party returned, reporting that the wounded man was doing well; that he left him medical supplies sufficient to last until he received medical attention from Dixon or Baggs, where he expected to be removed.

Except for the failure of Corporal Strother to return to the wounded man after failing to find the wife (and for this there is some slight excuse in his badly frightened condition), I can not feel that I will be censured for the course pursued by me.

I respectfully request that Acting Hospital Steward Leopold be called upon for a report in confirmation of my statement.

Very respectfully, your obedient servant,

HENRY H. WRIGHT,
Captain, Ninth Cavalry.

The correspondence, evidence, and official reports of the War Department, all of which have been submitted to the committee, fully warrant the recommendation of your committee that the bill be passed without amendment.

